

Is 4-B Classification an Alternative to TMDLs on USDA Forest Service Lands?

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Possibly

So what is category 4B?

- Pursuant to Sections 303(d) and 304(b) of the Clean Water Act, states are required to place water bodies in one of five categories.

They are:

Category 1: All designated uses are met.

Category 2: Some of the designated uses are met, but there is insufficient data to determine if remaining designated uses are met.

Category 3: Insufficient data to determine whether any designated uses are met.

Category 4: Water is impaired:

4A – TMDL(s) has been completed.

4B – Existing control measures are expected to result in the attainment of water quality standards (WQS) in a reasonable period of time, a TMDL is not needed.

4C - Waters are impaired entirely by something other than a pollutant.

Category 5: Water is impaired and a TMDL is needed.

So what's a Total Maximum Daily
Load (TMDL) really?

- The TMDL is a number; the amount of sediment (in this case) allowed to achieve state Water Quality Standards (WQS).
- It will take about 2 years to complete a watershed based assessment.
- Cost around \$200,000.

- It's a state responsibility – even on federal land.
- It should lead to an implementation plan (needed actions are the responsibility of the land owner) restoration, schedules, BMPs, and monitoring.

EPA Guidance states that waters can be taken off the 303(d) list without development of a TMDL if:

- the original basis for listing the water was shown to be in error;
- data and information show the water is meeting all applicable water quality standards;

- it is shown the applicable water quality standards are not being met entirely due to non-pollutant causes (e.g., low stream flow or natural concentrations) rather than pollutant causes (e.g., metals, nutrients, high temperature due to man's actions);
or....

- other pollution controls (e.g., best management practices or restoration) required or agreed to by local, state, or federal authority are stringent enough to achieve applicable water quality standards (category 4B).

So when *could* National Forest
lands qualify for category 4B?

- When the majority of the listed water is located on National Forest, *and*
- existing NEPA approved records of decision and available funding will address identified restoration needs within a reasonable timeframe, *and*
- these measures will address all significant sources of pollution.

What would be the advantages of establishing category 4B on National Forest lands?

- Achieves water quality standards sooner.
- Results in a savings of federal and state tax dollars.
- Encourages the Forest Service to take a leadership role in Clean Water Act implementation.
- Associated monitoring would provide information for adaptive management.
- Builds partnerships with state agencies, tribes, watershed groups and others.

What is Montana DEQ requiring
in a 4B report?

- Description of the authority under which the controls are required.
(Record of Decision)
- Identification of the controls to be relied upon. *(What are the problems and what BMP's will be prescribed?)*

- Showing that the controls are adequately stringent to result in attainment of applicable water quality standards within a reasonable period of time. (*In most cases this can be a straight forward literature or review or practical examples of similar restoration applied to similar situations where monitoring has occurred. More extensive modeling can also be done if warranted and appropriate effectiveness monitoring of the treatment conducted.*) **And,**

- *Record of Decision should be signed by the appropriate official.*

**So, why can't category 4B be used
on National Forest Watersheds?**

- In Montana the documentation needed by DEQ and EPA-Region 8 has become a much more rigorous process than was envisioned:
- **“Everything required by the Montana TMDL template, including establishment of sediment loading estimates and targets are deemed necessary.”**

So, why is this a problem?

- There is little or no reduced cost savings to the tax payer over completing a TMDL.
- Documentation work load for watershed personnel competes directly with ongoing forest management (including restoration).
- There is less incentive to Forest Supervisors to undertake the effort.
- Most importantly (from our view), additional documentation does not result in further improvement of watershed conditions and takes away from funds that could be use to address problems.

Nationally, there are 18,318 stream segments on 2,201 streams listed on National Forest Lands! $2,201 \times \sim \$200,000 = \sim \$440,200,000$.

Though many were listed using sufficient information, many listed had little information and there is little additional data today.

- Some Forest Service managers were encouraged to list as many waters as possible to be in line for future funding.
- Lack of long term information can make meaningful TMDL target formulation problematic.

Practical Suggestions!

- Reduce emphasis on attainment targets that are poorly founded.
- Focus on thorough identification of watershed restoration needs.
- Prioritize and conduct restoration that will allow water quality standard attainment.

- Develop a peer reviewed monitoring plan.
- Recognize that if thorough identification of man- induced restoration needs are conducted and appropriate restoration is completed, focused monitoring at the sites may be more definitive than surrogate or direct in-channel measurements. If you can't measure on-site erosion, you will not measure associated downstream sedimentation.

- Stress that if at any time the management actions agreed to in category 4B are not met or if monitoring shows that management measures were not effective, additional “**adaptive**” actions can be taken or the water can be reclassified as category 5.
- Remember, nonpoint sources will **only** be addressed through implementation of appropriate BMPs and restoration. Regulatory policies should not compete for funding with this implementation.

What's Next?

- Continued the ongoing good faith efforts to complete the first Category 4B report within Montana.
- Explore ways to make the the process defensible while maintaining efficiency.